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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE DISTRICT OF ARIZONA**
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8 Enrique Montijo,

9 Plaintiff,

10 v.

11 Charles L Ryan, et al.,

12 Defendants.
13

No. CV-13-01439-TUC-DCB

ORDER

14 On June 19, 2017, this Court found that material issues of fact existed as to whether
15 Defendants Swaney and Bennett were deliberately indifferent to Plaintiff's serious medical
16 needs when Plaintiff and several other inmates fell ill from botulism poisoning.¹ The Court
17 found that qualified immunity did not preclude this case and denied summary judgment for
18 Defendants Swaney and Bennett. (Order (Doc. 110)).

19 Defendants Swaney and Bennett appealed. On October 30, 2018, the Ninth Circuit
20 Court of Appeals affirmed this Court's decision. The Mandate issued on December 12,
21 2018.

22 **Accordingly,**

23 **IT IS ORDERED** that, within 30 days of the filing date of this Order, the parties
24 shall file the Joint Proposed Pretrial Order. The parties shall include in the Proposed
25 Pretrial Order whether this case should be consolidated for trial with CV 13-691 TUC
26 DCB.²

27 ¹ The Court previously dismissed Defendants Robinson, Suarez, and Ryan. (Order (Doc.
28 53)). Defendant Sanchez was dismissed for failure to prosecute. (Doc. 59.)

² The companion case, CV 13-1141 TUC DCB, was voluntarily dismissed by stipulation
of the parties on February 5, 2018.

1 **IT IS FURTHER ORDERED** that the parties should inform the Court as to whether
2 a settlement conference should be held before a magistrate judge prior to the Court holding
3 the Pretrial Conference and setting the trial date.

4 Dated this 17th day of December, 2018.

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A handwritten signature in black ink, appearing to read "David C. Bury", is written over a horizontal line.

Honorable David C. Bury
United States District Judge